

# State of Arkansas Contractors Licensing Board Newsletter



4100 Richards Road, North Little Rock, AR 72117 / (501) 372-4661

March 2004

## From the Desk of Howard Williams, Administrator

You as a licensed contractor in the great State of Arkansas are taking part in one of the leading industries and have a large impact on the economy. The Contractors Licensing Law, Contractors Bond Law and the Residential Building Law were all established for the public's health, safety and welfare. However, with these goals and purposes in mind it tends to strengthen the industry as well.

As many of you know we have relocated our offices to 4100 Richards Road, North Little Rock, AR. These offices are very accessible off of Interstate 40 exit 156 Springhill Road to East McCain Blvd or off of Hwy 167. A map is available on our website, which gives you specific directions to our office. You will find it pleasing when arriving at our office. We have available parking at the front door for visitors and plenty of accessible parking for those who might attend meetings as well.

The Contractors Licensing Law was established by Act 124 of 1939 and has undergone many amendments over the years. It requires a contractor who is doing \$20,000 worth of work or more including but not limited to labor and materials to have a contractors license on any project excluding single family residence. In order to have a contractors license you have to post a \$10,000 Surety Bond with the State of Arkansas, which we refer to as the Contractors Bond Law. This bond law has proven to be very effective for other agencies of the state in their collections of monies due.

The Residential Licensing Law was established by Act 950 of 1999 and became mandatory July 1, 2001. The three home exemption that many were using was repealed from the act effective July 16, 2003. We do see a number of new applications coming forward in the residential industry. We would encourage you, as a licensed contractor to assist us in making the word available to those in the industry that may not have recognized the need for a license at this point.

We consider it a great opportunity to serve this industry in the State of Arkansas and would encourage you to use all of the tools available from this office including our web page. Our web page gives you the most recent access to contractors search if you are reviewing to find contractors that are properly licensed in the State of Arkansas. However, like any other tool that we enjoy, if you do not find the contractor listed a check with this office might be worthy because of the lag in updating of the system. The Licensing Board meets twice a month for transaction of business and the Residential Committee meets once a month for transaction of business. These meetings are open to the public and we encourage you to attend if you desire.

The staff and administration wish to extend our sincere thanks and appreciation to you, the construction industry.

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State of Arkansas  
Contractors Licensing Board  
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### COMMERCIAL BOARD MEMBERS

**Ray Nabholz**  
Chairman.....Springhill  
**Mike Hocutt**  
Vice Chairman..... Little Rock  
**Scott Copas**  
Secretary..... Little Rock  
**Logan Hampton** .....Conway  
**Randy McNulty**.....Pine Bluff  
**Dan Wright** .....North Little Rock  
**Cecil Malone**.....Little Rock

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Chairman..... Little Rock  
**James Childress**  
Vice Chairman.....Cabot  
**Lance Johnson**  
Secretary..... Springdale  
**Bobby Joe Martin** ..... Prescott  
**Shirley Ballard** ..... El Dorado  
**Mike McFarland** ..... Springdale  
**Jack Hales** ..... Rogers

**CHECK OUT OUR NEW WEBSITE @**  
**[www.state.ar.us/clb](http://www.state.ar.us/clb)**  
**for the following information:**

- Contractors Licensing & Bond Law
- Rules and Regulations
- Contractors Search
- New and Renewal Applications
- Name Change/Bond Forms
- Amended Classification Forms
- Complaint Forms
- New Arkansas Links such as NASCLA

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## APPLICATION PROCESS

### From the desk of Elizabeth Wisdom

The new application now has additional questions to be answered by the applicant concerning bankruptcy issues, and stockholders that have ownership in the company. If the contractor has not filed bankruptcy in the last 10 years there will be no issue with the license. We now ask the contractor to list all stockholders that own 10% or more of the company on the new application and then on the renewal application we ask if there have been any changes. It is very important that we keep this information current in the contractors master file.

Equally important the qualifiers of the company need to be kept current. Whether it is a business and law or trade qualifier. That is why we have taken the renewal forms off the web site. The preprinted forms were designed to help us keep all information updated. The preprinted forms are mailed to each contractor about 6 weeks before their renewal date, to the last address we have on file. It is the responsibility of each contractor to contact us if an address change has occurred. It is also the contractors' responsibility to verify the information on the preprinted form is correct before sending it to us. There is another advantage to getting the preprinted forms; the instructions are included on the back. Many delays can be avoided if these instructions are followed.

We have also asked, on new applications, that a copy of the articles of the company be submitted. It may surprise you to know that we have received many audited financial statements on corporations that do not exist. We have had so much trouble with the names of the companies in the past. **The Arkansas Contractors License belongs to the company that the license is issued to not the qualifiers of the company.** The license, the bond, the financial and

the articles need to be consistent. When a renewal application is being done please refer to the preprinted renewal application and make sure that the name on the financial statement that you are submitting is **exactly** the same as what we have. If it has changed in any way, a name change form or, on some occasions, a new application will have to be filed. Sole proprietorships as well have to be consistent with the name they use. If the name is changed a name change form will need to be filed. The Contractor must understand that all work has to be done in the licensed entity name only.

Although there is a minimum net worth requirement there is also a working capital requirement. On the preprinted forms we have included a line that tells the contractors what net worth he needs to maintain as well as the working capital requirement. A letter of concern is sent if the financial has dropped or if there is a concern about a pattern of continued decline. If the contractor receives a letter of concern **an improvement has to be made the following year** to assure approval of the renewal. Refer to Arkansas Contractors Licensing Law and Rules and Regulations, page 25, section 224-25-6 FINANCIAL REQUIREMENTS.

I receive many questions about the classification requirements. On new applications there is confusion many times on what class is needed. On pages 22-24 of the Arkansas Contractors Licensing Law and Rules and Regulations there is a laundry list of all the specialty classes. The best rule to go by is the actual task or material to be used. Usually with that information a class can be narrowed. But let me give you an example of not asking for enough classes. A contractor wants to erect metal buildings, so an application is submitted and a request for metal building is made.

The license is issued and the contractor starts to work. He builds a pad, pours concrete for the building, erects the building and then does the interior finish out of the building adding walls and trim etc. An investigator comes by the job and tells the contractor he is in violation for working outside his class. Why—the only license this contractor has is the erection of that metal building. Go in detail or call this office before you apply to make sure you have all proper classifications. We must have three references for each class submitted, by non related individuals or companies, showing five years experience on each reference for commercial applicants and four years experience on each reference for residential applicants.

I am still having several financials that are being submitted, for commercial contractors, in the income tax basis. ***This is not acceptable.*** All financials have to be done on the **percentage of completion or completed contract method.**

Our board meeting dates except for October, November & December are as follows:

**Commercial hearing**  
dates are the second Friday of each month.

**Commercial regular meeting**  
dates are usually the fourth Friday of each month.

**Residential meeting**  
dates are the Wednesday prior to the fourth Friday of each month.  
**All applications and financials need to be in this office 4 days prior to a meeting to be considered.**

If we can be of any assistance please call. My direct line number is 501-371-1508. My assistant Rhonda Glover will be glad to answer any of your questions or direct you to me if she is not sure. Her number is 501-371-7710. It has, as always, been a pleasure

working with you. Have a great  
year.

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# The Legal Process

From the Desk of Greg Crow

The latest session of Arkansas Legislature saw four bills passed that effected either the Commercial or Residential licensing law. However, only one was really significant to contractors. Act 1103 of 2003 removed the three home exemption from the residential law. Previously, a residential license was not required unless a builder built more than three residences a year. That exemption has been removed. Now, a builder who builds a single home must have a residential license. This change in the law went into effect on July 16, 2003. The other three Acts that were passed (1) authorized the Board to meet anywhere in Arkansas (as opposed to just in Little Rock); (2) removed the "grain bin exception from the licensing law (former section 17-25-106; and (3) slightly changed the makeup of the Residential Committee.

The Board continues to actively enforce the licensing law. During the last year, the Board imposed \$686,071.00 in civil penalties and revoked or suspended several licenses. Over the last fiscal year the Board held hearings on 12 separate days with an average of 45 hearing per day for various violations of the law. The major issue facing the Board continues to be working without a license, but other issues also arise, including working outside of the classification issued by the Board. Please remember that the license issued to a contractor is issued with classifications. It is a violation of the licensing law to perform work outside of that classification(s). If you have any questions, call the Board BEFORE doing the work and we will advise you as to whether the work in question is within the classification held by a contractor. Also remember that you can add additional classifications to your license (if you meet the qualifications) at NO CHARGE.

The concept of "working out of class" brings up an area that is a growing problem. Residential contractors are issued a residential license, that is NOT a license to perform commercial work. (Again, a classification can be added at no charge, if a residential builder meets the licensing criteria for commercial work). The Board is starting to see some contractors with a Residential license attempting to perform work for which a Commercial license is required. Residential contractors need to be aware that a violation of the Commercial law can lead not only to civil penalties being issued by the Commercial Board, but also their Residential license being revoked by the Residential Committee.

In other "legal" news, the Arkansas Supreme Court has recently upheld the decision of the Board to revoke the license of a contractor for "misconduct in the conduct of the contractors business." In the case of Arkansas Contractors Licensing Bd. v. Pegasus Renovation Co., 347 Ark. 320, 64 S.W.3d 241 (2001), the Board found that the contractor, Pegasus, had refused, without good cause, to perform three contracts he had entered into. The Board found that such conduct was "misconduct" and revoked the contractor's license. The Arkansas Supreme Court agreed with the Board and affirmed its decision. Obviously, the Board does not wish to revoke a license unnecessarily, however, that penalty does remain an option in order to safeguard the public.

The Arkansas Attorney General's office has given notice that it intends to greatly INCREASE efforts to enforce the provisions of "The Arkansas Underground Facilities Damage

Prevention Act" Ark. Code Ann. § 14-271-101, et seq. (The Arkansas "One Call" law.) The Attorney General has announced that failures to comply with this law will result in actions by the Attorney General to impose penalties of up to \$2,500.00 for EACH violation of the Act. The Attorney General has stated that the primary focus on compliance will be in the following areas:

- (1) Timely calling One-Call;
- (2) Hand-digging as required by law; and
- (3) Immediately providing Notice of Damages if damage occurs.

The failure to abide by this law could be VERY expensive! In addition, the Board has started receiving complaints from One Call and utility companies about contractors who are routinely violating the One Call law. While the Board is not the primary enforcer of the One Call statute, a PATTERN of violations of any law may be considered "misconduct" by the Board and could result in the revocation of a contractor's license.



National Association of State Contractors Licensing Agencies  
P.O. Box 14941 · Scottsdale, AZ 85267 · Fax (480) 948-4117

IF YOU NEED INFORMATION ON CONTRACTORS' LICENSING IN OTHER STATES, YOU NEED  
A COPY OF THE **CONTRACTORS STATE LICENSING INFORMATION DIRECTORY**

The 2004 edition identifies over 170 state agencies that regulate the construction industry. The directory summarizes the pre-qualification, licensing, examination, and bonding requirements. Information regarding reciprocity, license classifications, incorporating, and fees is also included.

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